

REMARKS

Reconsideration of the subject matter identified in caption, pursuant to and consistent with 37 C.F.R. §1.116, and in light of the remarks which follow are respectfully requested.

Claims 1-20 remain pending in this application.

Applicants acknowledge with appreciation the courtesy and helpful suggestions of Examiner Griffin during telephone conversations held January 13 and 14, 2004. As indicated at that time, a review of the docket of the undesignated failed to show receipt of the Final Rejection allegedly mailed August 25, 2003. To expedite prosecution, Applicants are submitting this Response.

Claims 1-20 were provisionally rejected on the ground of obviousness-type double patenting over claims 1-16 of copending application, Serial No. 10/059,388 in view of U.S. Patent No. 2,452,121 to Grahame. The Examiner's rationale is set forth on pages 2-3 of the Office Action.

Respectfully, Applicants disagree with the Examiner's position and believe that claims 1-20 are patentably distinct from the invention claimed in Serial No. 10/059,388 even when taken with the disclosure of Grahame '121. However, to expedite prosecution of this application, Applicants are attaching a Terminal Disclaimer to obviate this rejection.

The filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). The court indicated that the "filing of a terminal disclaimer simply serves the

statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." Accordingly, the double patenting rejection should be withdrawn.

Applicants are attaching a copy of an Information Disclosure Statement and date-stamped receipt previously filed on July 16, 2002. It is requested that an Examiner-initialed copy of the PTO-1449 form be returned to Applicants. If the Examiner would like a copy of any of the documents cited on the PTO-1449 form, Applicants would be pleased to submit a copy.

Applicants are also submitting a copy of a Search Report issued in a related application currently pending in the Netherlands. Of the seven documents cited in the Search Report, three were cited on the PTO-892 form attached to the Office Action mailed March 25, 2003 (U.S. Patents Nos. 4,049,741; 2,452,121; 4,279,830) and two were cited by Applicants on the PTO-1449 form attached to the previously mentioned Information Disclosure Statement filed July 16, 2002 (U.S. Patents Nos. 4,260,841 and 4,547,601). Copies of the two remaining documents are attached (U.S. Patents Nos. 4,111,792 and 2,589,841).

Applicants respectfully request that Examiner Griffin review the Search Report and the attached U.S. patents and make the documents of record. If there are any issues which arise after reviewing these documents, a telephone call to the undersigned would be appreciated.

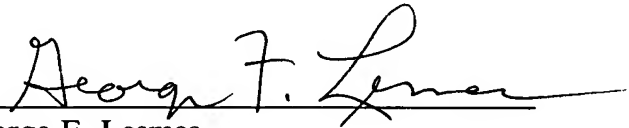
From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order and such action is earnestly solicited. If there are any questions concerning this paper, or the application in general, the Examiner is invited to telephone the undersigned at (703) 838-6683 at his earliest convenience.

Respectfully submitted,

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